



## Transmittal

**Date:** February 25, 2016  
**To:** San Luis Obispo Planning Department  
**From:** Jamie Kirk, Kirk Consulting  
**RE:** Appeal  
Merrill – Pomar Junction Winery CUP - DRC 2014-00004  
Modification to Project Condition 2

Enclosed please find an executed Inland Appeal Form appealing Condition 2 of Conditional Use Permit DRC 2014-00004 – Merrill – Pomar Junction Winery Time Frame Extension and Special Event Program. The Resolution of Approval, including the associated conditions, was adopted by the Planning Commission on February 11, 2016.

**Setting:**

The project site is located at 5036 South El Pomar Road (APN 033-291-048) approximately 7 miles east of Templeton. The project site is approximately 122 acres, zoned Agriculture and is within the El Pomar Planning Area. The site is planted with 95 acres of vineyards and roughly 5 acres of olives. The site consists of an existing single family residence, tasting room, wine processing facility, agriculture accessory structures, and vineyards. The property is enrolled in the County's Williamson Act Program.

**Background:**

In 2008 Dana Merrill received approval for a Minor Use Permit (DRC2006-00249) for a winery on the subject property. The original use permit was a phased project approving the following winery uses:

- Phase 1:
  - Convert an existing 1,400 sq.ft. residence to a tasting room/office, convert an existing 4,500 sq.ft. shop to a winery facility with crush area.
- Phase 2:
  - Convert two existing shops totaling 2,700 sq.ft. to barrel storage and construct waste water treatment facility.
- Phase 3:
  - The construction of a new 10,440 sq.ft. processing facility.

The Minor Use Permit approval included a limited events program for up to six winery special events per year with a maximum of 80 guests. Phase 1 of the approved Minor Use Permit was completed in 2009. Phase 2 and Phase 3 have not been completed.

---

8830 Morro Road, Atascadero, CA 93422  
Phone: 805-461-5765 Fax: 805-462-9466

**2014 Conditional Use Permit:**

A Conditional Use Permit was submitted to the Planning Department in July 2014 for the following:

- Extend the time frames to complete Phase 2 and Phase 3 approved under the 2008 Minor Use Permit to 2021 and 2026 respectively.
- Expand the Winery Special Event Program to allow up to 25 Winery Special Events with up to 200 attendees.
- Allowance for outdoor amplified music after 5:00 p.m. (between the hours of 10:00 a.m. – 10:00 p.m.).

The project was deemed 'Accepted as Complete for Processing' in October 2014 and forwarded to the Planning Commission with a recommended for approval, subject to conditions of approval, on February 11, 2016. The Planning Commission approved the project, subject to modified conditions of approval, at their meeting February 11, 2016.

**Appellant's Request for Appeal**

The appellant is appealing the following condition:

Condition #2

2. This approval authorizes two special events per month for no more than 200 attendees in addition to wine industry wide events. Amplified music between the hours of 10:00 a.m. and 9:30 p.m. is permitted and subject to Conditions 48-49. Maximum noise levels shall not exceed 65 dB as measured at the property line. No events shall be located at or associated with the vacation rental.

**Applicant Proposed Condition Modification:**

2. This approval authorizes ~~two~~ 25 special events per ~~month-year with~~ for no more than 200 attendees in addition to wine industry wide events. Amplified music between the hours of 10:00 a.m. and ~~9:30~~ 10:00 p.m. is permitted and subject to Conditions 48-49. Maximum noise levels shall not exceed 65 dB as measured at the property line. No events shall be located at or associated with the vacation rental.

**Appellant Response:**

The original condition as drafted by the project planner authorized 25 special events with no more than 200 attendees and outdoor amplified music past 5:00 p.m. (10:00 a.m. to 10:00 p.m.) consistent with the applicant's request.

**Condition 2: Staff Recommended Language**

2. This approval authorizes 25 special events for no more than 200 attendees in addition to wine industry wide events. Amplified music past 5:00 p.m. is permitted and subject to Conditions 48-50.

Condition 2 was modified by the Planning Commission during the Planning Commission Hearing. The condition modifications included the following:

- Special events restricted to no more than 2 events per month
- Amplified music between the hours of 10:00 am and 9:30 pm
- No events allowed at or associated with the approved Vacation Rental

There was no basis provided in the staff report or information provided during the public hearing to support the Planning Commissions modification of Condition 2. In fact all information contained in the staff report and the information provided during the public hearing supports the condition language contained in the original staff recommendation. The Planning Commission modified the condition based on a concern that event activities on the property could become a problem at some point in the future.

At the Planning Commission hearing Mr. Merrill was willing to concede to not allowing private parties or event activities related to the approved vacation rental located on the property. Agreeing to this additional restriction actually limits the on-site activities to less than what is legally allowed to occur on the site today *without* approval of the expanded winery special event program. Mr. Merrill was willing to accept the limitation, as he wants to focus on winery related special events, however he was not in agreement to the limitation of up to two winery special events per month or reducing the hours allowed for outdoor amplified music by one half (.5) hour.

The limitation of no more than two winery special events per month limits the number of annual winery special events that could occur on the property to 24 and in reality further limits the number of annual winery special events to 10-12 annual events. The 'event season' typically runs between the months of April – October. Pomar Junction does not have an indoor space available for events, therefore all of their events occur outdoors. With the events occurring outdoors Pomar Junctions 'event window' is further restricted and dependent upon weather.

Pomar Junction Winery has hosted a variety of events on the site since the original Minor Use Permit was approved in 2008. The events include weddings, the "Train Wreck Friday" summer concert series, various wine club activities, and the Earth Day event (+2,000 attendees) in conjunction with Visit San Luis Obispo. Their existing event program and operations have proven that the site is an appropriate location for the

proposed Special Event Program and events can occur on the property without neighbor conflict.

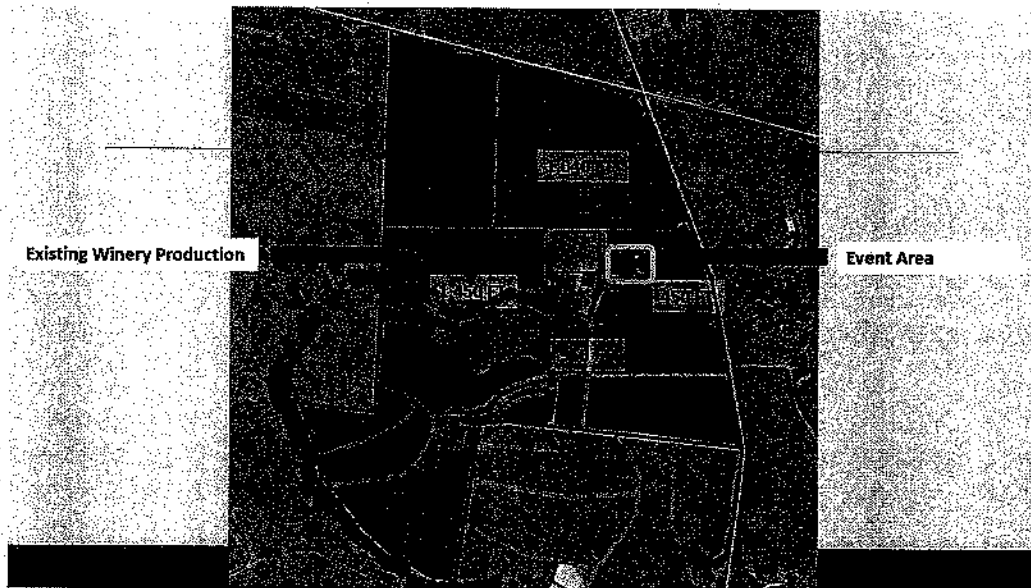
**Property Line Setbacks and Proximity to Neighbors:**

The event area is located within the existing development envelope and is located a significant distance from the exterior property lines and neighboring residences. The parcel is a large property and is surrounded by larger agricultural properties, thereby potential conflicts with neighboring residential uses is minimized. The closest residence is more than 900 feet from the event area. Letters in support of the project from adjacent property owners were provided to the Planning Commission in the staff report.

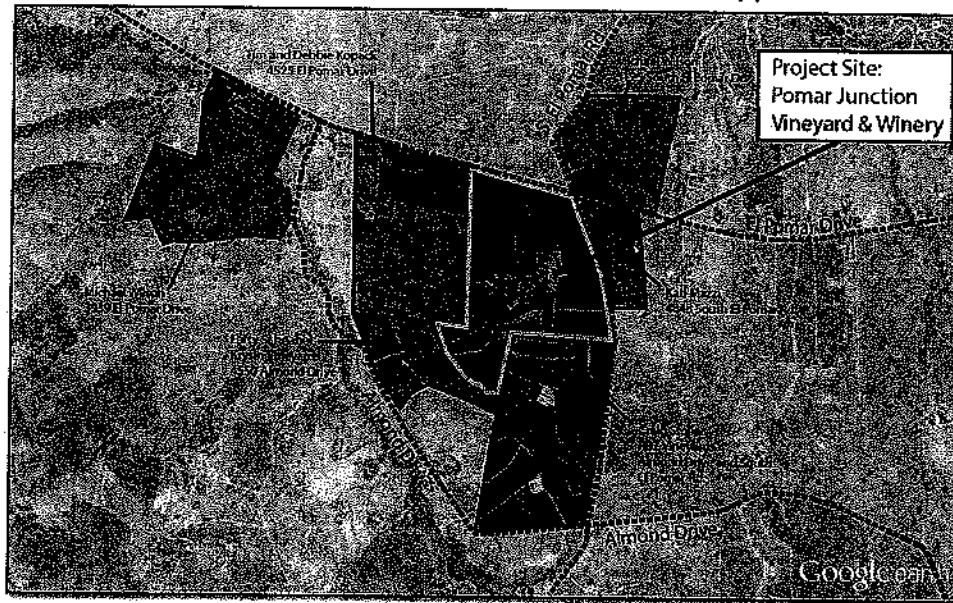
The only public comments provided during the hearing, besides applicant testimony, was from Paul Hoover. Mr. Hoover's comments were in support of the project. His testimony focused on the importance of winery special events to a small winery's success as they build customer relationships and lead to an increase in direct to consumer sales through the tasting room and wine club.

No conflicts or impacts with the neighboring uses were identified to warrant the additional restrictions imposed by the Planning Commissions.

**Property Line Setback Exhibit:**



**Exhibit Identifying Neighbors that have Submitted Letters of Support:**



**Noise:**

The winery standards of the Land Use Ordinance allow amplified music between the hours of 10 a.m. and 5 p.m. Outdoor amplified music is allowed after 5:00 p.m. where a finding can be made by the Review Authority that the noise at the property line will not exceed 65dB. Most applications that request amplified music after 5:00 p.m. agree to limit the outdoor amplified music between the hours of 10:00 a.m. and 10:00 p.m.

An Acoustical Analysis was prepared by David Lord, an acoustical engineer. The analysis measured the exterior noise levels by placing several speakers in the event area (450 feet from the nearest property line) and then adjusted the sound level of the speakers to 100 dBA. Based on Mr. Lord's measurements, the sound level was attenuated (reduced) to 65 dBA at a distance of 250 feet from the noise source (speaker), which is more than 230 from the nearest property line. The Acoustical Analysis concluded "The site sound levels for the proposed project do not exceed the County of San Luis Obispo limit of 65 dBA stated in the Land Use Ordinance. Therefore, no noise mitigation for outdoor amplified music is required." (Lord). The information in the record supports the applicants request to allow outdoor amplified music until 10:00 p.m.

No conflicts or impacts in regards to noise / outdoor amplified music were identified by the Planning Commission to warrant limiting outdoor amplified music to 9:30 p.m.

**Access:**

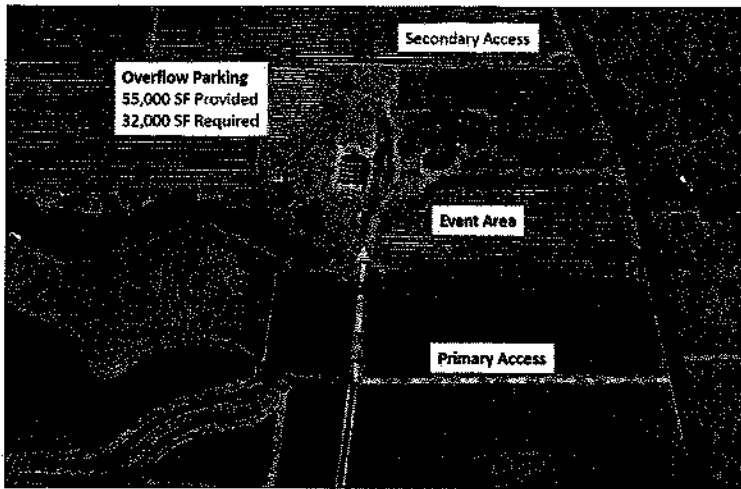
The site has adequate access. Primary access for the winery is provided from South El Pomar Road. In addition to the winery's primary access road, there are two additional

---

8830 Morro Road, Atascadero, CA 93422  
Phone: 805-461-5765 Fax: 805-462-9466

access roads which are used during events. Public Works reviewed the project and did not have any concerns with the access during normal winery operations or during events. Furthermore, no access issues have been identified during the event activities that have occurred on the property over the last seven years.

No conflicts or impacts in regards to access were identified by the Planning Commissions to warrant the restriction to no more than two events per month.



**Land Use Ordinance Compliance:**

The proposed Special Event Program is in compliance with the provisions of the County Land Use Ordinance. In fact, the Land Use Ordinance 'limits' winery special events to 40 days a year. The winery special event program proposed by Pomar Junction is well below the 40 days a year allowed by the Land Use Ordinance.

No conflicts or impacts in regards to Ordinance Compliance were identified to warrant the additional restrictions imposed by the Planning Commission

## Land Use Ordinance Requirements Winery Special Events

- Minimum Site Area Required is 20 Acres
  - Project Site 121 Acres
- Secondary Access Required
  - Secondary Access Provided
- Limited to 40 Days a Year - No Limit on Number of Attendees
  - Proposed 25 events per year with up to 200 Attendees
- Amplified Music Limited to 10 AM – 5 PM – May be Waived Based on Acoustic Analysis
  - Application includes a Modification request to allow outdoor amplified music past 5 pm

8830 Morro Road, Atascadero, CA 93422  
Phone: 805-461-5765 Fax: 805-462-9466

**Review by Other Agencies:**

The project was reviewed by County Planning Department, Cal Fire, Public Works, Environmental Health, Templeton Area Advisory Group, Ag Preserve Review Committee, and the Ag Department. These Agencies and Departments determined the proposed project, with the appropriate conditions, is suitable for the site.

No conflicts or impacts were identified in the Staff Report or the Department Referral Responses to warrant the additional restriction imposed by the Planning Commission

**Conclusion:**

The appellant is requesting the Board of Supervisors grant the appellant's request to modify Condition 2 as follows:

2. This approval authorizes ~~two~~ 25 special events per ~~month-year with for~~ no more than 200 attendees in addition to wine industry wide events. Amplified music between the hours of 10:00 a.m. and ~~9:30~~ 10:00 p.m. is permitted and subject to Conditions 48-49. Maximum noise levels shall not exceed 65 dB as measured at the property line. No events shall be located at or associated with the vacation rental.

The appellant's request can be approved by the Board based on the following:

- The project is compliant with the Winery Land Use Ordinance requirements
- No conflicts or impacts related to the project proposal were identified in the staff report or during the public hearing
- Based on the characteristics of this particular project and this particular site, the additional restrictions proposed by the Planning Commission are unnecessary.

For these reasons, we respectfully request that the Board of Supervisors uphold the appellant's request. Please do not hesitate to contact me with any questions.

Sincerely,

Jamie Kirk  
Kirk Consulting



SAN LUIS OBISPO COUNTY

## DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land - Helping to build great communities

February 17, 2016

Dana Merrill  
P.O. Box 789  
Templeton, CA 93465

FEB 17 2016

Kirk Consulting  
8830 Morro Road  
Atascadero, CA 93422

### NOTICE OF FINAL COUNTY ACTION

SUBJECT: DANA MERRILL OF POMAR JUCTION WINERY  
COUNTY FILE NUMBER: DRC2014-00004

At the meeting of February 11, 2016, the County Planning Commission approved your application and adopted an official resolution. A copy of this resolution is enclosed for your records. The approved Findings, shown in Exhibit A, and the Conditions, shown in Exhibit B, are attached to the resolution. The conditions of approval must be carried out as set forth therein.

If you disagree with this action, pursuant to County Land Use Ordinance Section 22.70.050, you have the right to appeal this decision to the Board of Supervisors up to 14 calendar days after the date of the action, in writing on the proper department appeal form, to the Department of Planning and Building. The appeal fee is \$850.00 and must accompany your appeal form. We will only accept the original appeal form with an original signature; a FAX will not be accepted.

If you have any questions regarding this matter, please contact me at (805) 781-5612.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hedges".

RAMONA HEDGES, SECRETARY  
COUNTY PLANNING COMMISSION

PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, February 11, 2016

PRESENT: Commissioners Jim Irving, Ken Topping, James Harrison, Eric Meyer, and Chairman Don Campbell

ABSENT: None

PLANNING COMMISSION RESOLUTION NO. 2016 - 008  
RESOLUTION RELATIVE TO THE GRANTING  
OF A  
CONDITIONAL USE PERMIT

WHEREAS, the County Planning Commission of the County of San Luis Obispo, State of California, did, on the 11<sup>th</sup> day of February, 2016, grant a Conditional Use Permit to DANA MERRILL OF POMAR JUNCTION WINERY and adopts the Negative Declaration. The site is in the Agriculture land use category and is located at 5036 South El Pomar Road, in the El Pomar-Estrella Sub area of the North County Planning Area. Assessor Parcel Number(s)/APNs: 033-291-048.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit based on the Findings listed in Exhibit A.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 11<sup>th</sup> day of February, 2016, does hereby grant the aforesaid Permit No. DRC2014-00004.

This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance/Coastal Zone Ordinance Section 22.64.070/23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance/Coastal Zone Ordinance Section 22.64.080/23.02.042.

If the use authorized by this Permit approval, once established, remains vacant and unused for its authorized purpose, or is abandoned or discontinued for a period greater than 12 consecutive months, such Permit approval shall become void.

On motion of Commissioner Irving, seconded by Commissioner Topping, and on the following roll call vote, to-wit:

AYES: Commissioners Irving, Topping, Harrison, Meyer, and Chairman Campbell

NOES: None

ABSENT: None

the foregoing resolution is hereby adopted.

/s/ Don Campbell  
Chairperson of the Planning Commission

ATTEST:

/s/ Ramona Hedges  
Secretary, Planning Commission

**EXHIBIT A -- FINDINGS  
DRC2014-00004 Merrill**

***Environmental Determination***

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq. and CA Code of Regulations Section 15000 et seq.) has been issued on December 30, 2015 for this project. Mitigation measures are proposed to address Air Quality, Biological Resources, and Waste Water and are included as conditions of approval.

***Conditional Use Permit***

- B. The proposed project is a winery to process primarily on-site grapes with a small incidental tasting room which is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies including the agricultural and open space policies and the Williamson Act contract.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the winery and tasting room does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the winery and tasting room is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed winery and tasting room will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project because the project is located on South El Pomar Road, a designated collector road constructed to handle any additional traffic associated with this project.

***Noise Modification***

- G. Modification of the Land Use Ordinance Section 22.30.070.C.1.(3) to allow amplified music after 5 p.m. is justified because noise at the property line will not exceed 65dB and an acoustical analysis demonstrated that outdoor amplified music on the terrace after 5pm, will not exceed the County's 65dB noise requirement at property line (Sound Level Assessment, prepared by David Lord PhD, June 23, 2014).

***Williamson Act***

- H. The proposed project will re-affirm the approval for the conversion of two 2,700 square-foot buildings to agricultural processing uses, extend the time frame for previously approved agricultural processing uses, and allow a limited increase to the existing

special event program. The uses will be contained within the existing development envelope and will not result in the conversion of lands in production agriculture. The primary use on-site will be the processing of on and off-site grapes into wine.

Agricultural processing uses, including special events, are allowed as 'agricultural and compatible uses' by Table 2 of the San Luis Obispo County Rules of Procedure to Implement the Land Conservation Act of 1965. The project will not compromise the long term productive agricultural capability of the contracted land. The project will not impair current or foreseeable agricultural operations on the property. The project will not result in the significant removal of on-site or off-site agricultural uses. Therefore, the project complies with the intent of the Laird Bill, as the primary use is, and will remain, agriculture.

**EXHIBIT B – CONDITIONS OF APPROVAL**  
**Merrill DRC2014-00004**

**Approved Development**

1. This approval authorizes the construction of a three-phased construction of a winery and tasting room. The following provides a breakdown of the proposed phases:
  - A. **Phase I** - To be vested by 2021 in accordance with Condition 37.
    - Conversion of two shop buildings to 2,700 square feet of barrel storage
    - Construction of expanded wastewater treatment facility (including 1,500-square foot wetlands system and 4,800-square foot effluent storage pond)
    - Case production of 15,000 cases
  - B. **Phase II** - To be vested by 2026 in accordance with Condition 37.
    - Construction of new 10,440-square foot processing facility
    - Case production of 30,000 cases
2. This approval authorizes two special events per month for no more than 200 attendees in addition to wine industry wide events. Amplified music between the hours of 10:00 a.m. and 9:30 p.m. is permitted and subject to Conditions 48-49. Maximum noise levels shall not exceed 65 dB as measured at the property line. No events shall be located at or associated with the vacation rental.
3. This approval does not authorize other uses including bed and breakfasts or restaurants, and any events associated with these uses.

**Conditions to be completed at the time of application for construction permits**

**Site Development**

4. **At the time of application for construction permits**, submit a revised site to the Department of Planning and Building for review and approval. The revised plan shall indicate the following and development shall be consistent with this revised and approved plan:
  - a. Improved parking to conform to the required spaces (15).
  - b. Event parking shall be unimproved and of an open area with a slope of 10 percent or less, at a ratio of 400 square feet per car, on a lot free of combustible material. Total number of spaces is based on the ratio of one space per 3 people in attendance at the event.
  - c. Any gates located at the access points shall be setback a minimum of 75 feet from the traveled way of El Pomar Road or South El Pomar Road.
5. **At the time of application for construction permits**, all development shall be consistent with the approved and revised site plan, floor plan, and architectural elevations.

**Access**

6. **At the time of application for construction permits**, the applicant shall submit plans prepared by a Registered Civil Engineer to the Department of Public Works to secure an Encroachment Permit and post a cash damage bond to install improvements within the

public right-of-way in accordance with County Public Improvement Standards. The plan is to include, as applicable:

- a. Reconstruct the existing main winery driveway approach in accordance with County Public Improvement Standard B-1e drawing for high speed and/or high volume rural roadways and county sight distance standards.
  - b. Reconstruct the other existing site access driveway approaches in accordance with County Public Improvement Standard B-1 drawings for rural roadways and county sight distance standards.
  - c. Removal of all existing non-permitted obstructions from within the public right-of-way of the project frontage.
7. **At the time of application for construction permits**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.

#### **Fire Safety**

8. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the CDF/County Fire Department for this proposed project.

#### **Biological Resources**

9. **At the time of application for construction permits**, the applicant shall clearly show on the project plans all trees within 50 feet of construction activities. No oak trees shall be removed. The project plans shall also show the type and location of tree protection measures to be employed. All trees to remain on-site that are within fifty feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced **prior to any grading**. The outer edge of the tree root zone is 1-1/2 times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil. If any roots must be removed or exposed, they shall be cleanly cut and not left exposed above the ground surface. **Prior to final inspection or occupancy**, whichever occurs first, the applicant shall provide verification to the satisfaction of the county that the above measures were incorporated into the project.

#### **Wastewater**

10. Liquid waste generated by the winery operations must be discharged to a waste water system designed by a civil engineer with expertise in the design of winery wastewater systems and approved by the County Building Official or Regional Water Quality Control Board. Such system shall not create offensive odors or materially impair the quality of groundwater for domestic or agricultural use. Prior to discharge of winery wastewater, the applicant shall obtain approval/permits from the Regional Water Quality Control Board. In no case shall winery wastewater be discharged into a stream or other surface water.
11. Waste Discharge permit or exemption from a permit from the Regional Water Quality Control Board. A copy of the permit or exemption from a permit shall be submitted to the County Planning and Building Department and Environmental Health Department.

12. Solid vegetable waste from the winery (pomace), shall be removed from the site to an approved composting/green waste facility or composted on the site and used as a soil amendment. In no case shall pomace be treated, stored, or disposed of in a manner that could result in runoff into any surface stream.

#### ***Exterior Lighting***

13. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

#### **Conditions to be completed prior to issuance of a construction permit**

##### ***Air Quality***

14. **Prior to issuance of any construction permit** to remove or demolish any buildings or utility pipes on the subject property, the applicant shall provide evidence they have contacted APCD to determine: a) what regulatory jurisdictions apply to the proposed demolition, such as the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M – Asbestos NESHAP); b) District notification requirements; c) the need for an asbestos survey conducted by Certified Asbestos Inspector; and d) applicable removal and disposal requirements of the asbestos-containing material.
15. **Prior to construction permit issuance**, the applicant shall provide evidence they have contacted APCD on any proposed portable equipment requiring APCD or CARB registration, such as: 50-hp portable generators, IC engines, unconfined abrasive blasting operations, concrete batch plants, rock and pavement crushing, tub grinders, trammel screens, etc. Should any of these types of equipment be used during construction activities California statewide portable equipment registration (issued by the California Air Resources Board) or an APCD permit may be required.
16. **Prior to construction permit issuance**, the applicant shall submit plans demonstrating design standards to ensure vehicle speeds do not exceed 25 miles per hour on primary and secondary access roads. Prior to final inspection, the applicant shall post maximum speed limits signs of 25 miles per hour on proposed access roads. For the life of the project, the applicant shall use a California Air Resources Board (CARB) certified dust suppressant on access roads and parking areas.

##### ***Biological Resources***

17. **Prior to issuance of construction permits**, the "Project Limits" shall be clearly delineated on all construction plans. Prior to any construction work beginning, including any vegetation clearing, where creek habitat has been identified, sturdy high-visibility fencing shall be installed to protect this habitat. This fencing shall be placed a minimum of 100 feet from the edge of identified riparian habitat with the exception of the existing agricultural road proposed for improvement. Fencing shall be placed at the edge of the road, between the road and riparian habitat. No construction work (including storage of materials) shall occur outside of the "Project Limits". Any required fencing shall remain in place during the entire construction period and checked and repaired as needed by the resident engineer. **Prior to final inspection or occupancy**, whichever occurs first, the applicant shall provide verification to the satisfaction of the county that no disturbance occurred outside of the approved "project limits" line.
18. **Prior to issuance of construction permits**, a hazardous materials spill response plan shall be developed and submitted to the county for county approval.

**Water**

19. **Prior to issuance of a construction permits** the applicant shall submit evidence that there is adequate water to serve the proposal, onsite.
20. **Prior to issuance of a construction permit**, applicant shall comply with all offset requirements set forth in Resolution 2015-0288 regarding the Paso Robles Groundwater Basin.

**Wastewater**

21. Liquid waste generated by the winery operations must be discharged to a waste water system designed by a civil engineer with expertise in the design of winery wastewater systems and approved by the County Building Official or Regional Water Quality Control Board. Such system shall not create offensive odors or materially impair the quality of groundwater for domestic or agricultural use. **Prior to discharge of winery wastewater**, the applicant shall submit documentation of a waste discharge permit or waiver issued by the Regional Water Quality Control Board. In no case shall winery wastewater be discharged into a stream or other surface water.
22. **Prior to issuance of construction permits**, the applicant shall submit revised plans showing a minimum 100-foot setback from the edge of riparian vegetation to the proposed wetland cells and effluent storage pond.
23. **Prior to issuance of construction permits for each phase of development**, the applicant shall submit documentation of a waste discharge permit or waiver issued by the Regional Water Quality Control Board.

**Grading, Drainage, Erosion Control**

24. Prior to issuance of construction permit(s), sedimentation and erosion control plans shall be submitted using Best Management Practices to minimize sediment from entering nearby water bodies or prominent drainage courses.

**Fees**

25. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
26. **Prior to issuance of a construction permit**, the applicant shall pay the housing impact fee as required by Section 22.12.080.F.1, or may defer fee payment pursuant to Section 22.12.080.J.4. As an alternative the applicant may provide housing units or a land donation, pursuant to Section 22.12.080.F.3.
27. **Prior to issuance of a construction permit**, the applicant shall pay all applicable road fees.

**Health Department**

28. **Prior to issuance of a construction permit** for the appropriate phase, the applicant shall obtain the appropriate Health Department permits. The Health Department will require at a minimum the following information:
  - a. A Hazardous Materials Questionnaire.
  - b. Evidence that there is adequate water to serve the proposal, on the site.
  - c. If plan review for a cross connection determines that a device is necessary, then an annual device test shall be provided.
  - d. If water is made available to 25 or more employees at any one time, or to members of the public, then the applicant shall be required to have public water supply system.

- e. The applicant shall submit a site plan showing the location of water wells and the distance from wastewater systems.

**Conditions to be completed during construction**

***Biological***

29. **Prior to any work beginning**, should the project need to span the riparian corridor, or disturb any riparian habitat, the applicant understands that they will need to contact the following agencies to determine the need for other state or federal permits: California Department of Fish and Game, U.S. Fish & Wildlife Service, National Marine Fisheries Service, Army Corps of Engineers. When such permits are required, any applicable requirement shall be shown on applicable construction plans and adhered to during construction.
30. **During construction and ground disturbing activities**, all refueling, maintenance, and staging of equipment and vehicles will occur at least 100 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. **Prior to commencement of grading/construction activities**, the applicant will ensure that a plan is in place for prompt and effective response to any accidental spills. All workers will be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.
31. **Prior to issuance of construction permits**, the applicant shall submit revised plans showing a minimum 100-foot setback from the edge of riparian vegetation to the proposed wetland cells and effluent storage pond.
32. **Prior to commencement of grading activities**, work area boundaries shall be clearly staked in a manner that all construction work shall avoid the creek and associated riparian vegetation.

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use**

***Site Development***

33. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

***Access***

34. **Prior to occupancy or final inspection**, all public improvements have been constructed or reconstructed in accordance with County Public Improvement Standards and to the satisfaction of the County Public Works Inspector.

***Fire Safety***

35. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

***Biological***

36. **Prior to final inspection**, the applicant shall replace, in kind at a 2:1 ratio for each oak tree impacted but not removed. No oak trees shall be removed as a result of the development of the project. Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, topsoil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer). Location of newly planted trees should

adhere to the following, whenever possible: on the north side of and at the canopy/dripline edge of existing mature native trees; on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g. lawns, leach lines).

These newly planted trees shall be maintained until successfully established. This shall include protection (e.g. tree shelters, caging) from animals (e.g., deer, rodents), regular weeding (minimum of once early Fall and once early Spring) of at least a three-foot radius out from plant and adequate watering (e.g., drip-irrigation system). Watering should be controlled so only enough is used to initially establish the tree, and reducing to zero over a three-year period. If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.

**On-going conditions of approval (valid for the life of the project)**

***Time Limits***

37. This land use permit is a phased project as described in Condition 1. Each phase of this land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed for each phase as indicated in Condition 1. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
38. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

***Access***

39. **On-going condition of approval (valid for the life of the project)**, any gate constructed on a driveway where off-site grapes are delivered and/or product is exported from the site shall be a minimum of 75-feet from the traveled way of any road open to public traffic.
40. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; tree planting; fences; etc without a valid Encroachment Permit issued by the Department of Public Works.
41. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of public road frontage landscaping in a viable condition and on a continuing basis into perpetuity or until specifically accepted for maintenance by a public agency.

***Biological***

42. The applicant recognizes that trimming of oaks can be detrimental in the following respects and agrees to minimize trimming of the remaining oaks: removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain the wildlife that is found only in the lower branches, 4) retains shade to keep summer temperatures cooler

(retains higher soil moisture, greater passive solar potential, provides better conditions for oak seedling volunteers) and 5) retain the natural shape of the tree. Limit the amount of trimming (roots or canopy) done in anyone season as much as possible to limit tree stress/shock (10% or less is best, 25% maximum). Excessive and careless trimming not only reduces the potential life of the tree, but can also reduce property values if the tree dies prematurely or has an unnatural appearance. If trimming is necessary, the applicant agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe situation exists, trimming shall be done only during the winter for deciduous species. Smaller trees (smaller than 5 inches in diameter at four feet above the ground) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.

#### **Fees**

43. **On-going condition of approval (valid for the life of the project)**, and in accordance with Title 13.01 of the County Code, the applicant shall be responsible for paying to the Department of Public Works the Templeton Area B Road Impact Fee. The fee shall be imposed at the time of application for building permits and shall be assessed for each building permit to be issued. These fees are subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of application for building permits.

#### **Outdoor Storage**

44. Long term outdoor winery storage areas shall be screened by solid fencing or landscaping and shall not be higher than the associated solid fence screening or landscaping, unless the storage area is not visible from any public road or adjacent properties.
45. Any water tanks associated with the project shall be a neutral, non-contrasting color, and landscape screening shall be provided so that the water tanks are not visible from any public road.

#### **Commercial Kitchen**

46. This approval does not allow a commercial kitchen to function as a restaurant (limited food service facility).

#### **Pomace**

47. Solid vegetable waste from the winery (pomace) shall be removed from the site to an approved composting/green waste facility or composted on the site and used as a soil amendment. In no case shall pomace be treated, stored, or disposed of in a manner that could result in runoff into any surface stream.

#### **Noise**

48. **Prior to initiation of public events**, the applicant shall submit to the county a copy of a formal rental agreement for groups making use of the event site. The rental agreement shall include the disclaimer that outdoor amplified music will not exceed Lmax levels of 65 dB decibels noise standards at the property line. The rental agreement shall identify an on-site manager to be present during all events who will have a basic sound level meter to verify conformance with standards and to correct problem situations.
49. **For the life of the project**, the applicant shall designate an employee to serve as a noise monitor. For events that include outdoor amplified music, the noise monitor shall monitor noise levels, on an hourly basis, with a sound level meter at the property lines to ensure that the noise levels do not exceed those prescribed in the County Land Use Ordinance. The outdoor amplified music shall not exceed Lmax levels of 65 dB decibels

at the property line. The noise monitor shall be available by telephone to respond to any noise complaints and take corrective measures to ensure compliance with the County Land Use Ordinance. The applicant and successors in interest shall provide a telephone number to reach the designated noise monitor to the County and any neighbor who requests it. The telephone number provided shall allow the County and/or neighbor to reach the noise monitor during all events.

#### **Notification**

50. The applicant shall provide notification of events, through an email or letter, to owners of property within a minimum of 1,000 feet of the exterior boundaries of the proposed site. If a letter is used, it shall be delivered within 30 days prior to but not less than 3 days before each event occurrence. The following information shall be provided:
- a) A complete listing of all scheduled events including dates, times and number of attendees;
  - b) 24-hour contact information for the on-site operator (cell phone), including e-mail and phone number, to be used to notify the operator of issues with the operation;
  - c) Contact information for County Code Enforcement to be used if members of the public have complaints about the operation;
  - d) Any identified problems shall be responded to and addressed as soon as possible.

As an alternative to providing the annual listing of the events in a letter, a website may be used. If a web-site is used, notification shall first be provided by mail and contain the website address, the 24 hour local contact information and the approved number of events and attendee numbers. The website shall be maintained and kept current at all times.

#### **Event Parking**

51. Event parking shall be unimproved and of an open area with a slope of 10 percent or less, at a ratio of 400 square feet per car, on a lot free of combustible material. Total number of spaces is based on the ratio of one space per 3 people in attendance at the event.

#### **Event Lighting**

52. **For the life of the project**, use of exterior lighting in association with an event shall not extend beyond 10:30 p.m. Use of lighting beyond these hours is acceptable where necessitated for emergency purposes, provided that the use of lighting is minimized only to what is necessary to address the urgent conditions.
53. Any lighting used during events shall comply with Section 22.10.060 (Exterior Lighting). All lighting shall have minimized intensity. Sources shall be directed away from any road, highway, or adjacent residences.

#### **Signs/Banners**

54. **For the life of the project**, banners, signs, or decorative materials on the project site are limited to being posted on the day of the event, and shall be removed by the following day.

#### **Recycling**

55. On-going condition of approval (valid for the life of the project), the applicants shall provide recycling opportunities to all facility users at all events in accordance with Ordinance 2008-3 of the San Luis Obispo County Integrated Waste Management Authority (mandatory recycling for residential, commercial and events).

**Trash**

56. For the life of the project, the site shall be kept clean and free of trash and debris during each event and such materials shall be prevented from passing onto neighboring properties.

**Toilet Facilities**

57. Portable restroom facilities may be used, in lieu of permanent restrooms, provided they meet all state and local specifications and are sufficient to serve the maximum number of persons allowed at an event.

**Water**

58. The applicants shall comply with the Memorandum Regarding Water Offset Calculation (Wallace Group, July 7, 2014) recommendations for special events regarding use of temporary toilets and catering of meals. If applicant chooses to utilize permanent toilets and/or cook on-site for events, new water offset calculations shall be required.